

US Patent Application 10/735,601  
Response to Office Action dated October 31, 2006  
Response dated November 30, 2006

The Examiner has alleged that the claims embody three patentably distinct inventions:

Claims 1-15 and 26-31, drawn to a method to prepare alpha-viral replicon particles that encode 2 or more heterologous sequences, classified in class 435, subclass 320.1.

Claims 16-19, drawn to a composition of alphaviral particles encoding at least one heterologous sequence, classified in class 435, subclass 325.

Claims 20-25, drawn to a method to immunize a human or animal comprising the administration of alphaviral replicon particles, classified in class 424, subclass 93.1

The Examiner has alleged that Inventions I and II are related as process of making and product made, and that the alphaviral particles can be made separately or with other conditions of releasing replicons as known in the art.

The Examiner has also alleged that Inventions I and III are patentably distinct and that the different inventions are not disclosed as capable of use together and have distinct method steps to obtain distinct effects.

The Examiner has concluded that it would pose a serious burden on the Examiner to search and examine any two inventions together. However, Applicants respectfully point out that the issuance of the second requirement for restriction resulted in additional expense to Applicant and the passage of additional time prior to an official action on the merits.

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Applicants elect the claims of Group II with traverse (claims 16-19) for examination with traverse. Within this invention, the species of melanoma cell is elected. Within the elected Group, claims 16-17 read on the elected species.

Traverse is made on the basis that examination of both claim sets would not pose an undue burden given the intended use of the alphaviral particles made by the Group III methods of and preparation of the particles by the Group I methods.

Applicants reserve the right to file one or more divisional applications to pursue claims to the non-elected invention if the Examiner does not agree to withdraw the requirement for restriction.

The undersigned certifies that this Response is filed with the United States Patent and Trademark Office electronically (efs web) on November 30, 2006.

It is believed that this submission does not require the payment of any fees. If this is incorrect, please charge any requisite fees to Deposit Account No. 07-1969.

Respectfully submitted,

/donnamferber/

Donna M. Ferber  
Reg. No. 33,878

**GREENLEE, WINNER AND SULLIVAN, P.C.**

4875 Pearl East Circle, Suite 200  
Boulder, CO 80301  
Telephone: (303) 499-8080  
Facsimile: (303) 499-8089  
Email: winner@greenwin.com  
Attorney Docket No. 95-02  
November 30, 2006